

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\* \* \*

DANIEL E. NAHOURAI

Case No. 3:21-cv-00456-CLB

**Plaintiff,**

**ORDER DENYING MOTION TO  
REMAND AND GRANTING CROSS-  
MOTION TO AFFIRM**

KILOLO KIJAKAZI,  
Acting Commissioner of Social Security,

[ECF Nos. 22, 23]

**Defendant.**

This case involves the judicial review of an administrative action by the Commissioner of Social Security (“Commissioner”) denying Daniel E. Nahouraii’s (“Nahouraii”) application for disability insurance benefits (“DIB”) pursuant to Title II of the Social Security Act. Currently pending before the Court is Nahouraii’s motion for reversal and/or remand, (ECF No. 22), and the Commissioner’s cross-motion to affirm and opposition, (ECF Nos. 23, 24). Having reviewed the pleadings, transcripts, and the Administrative Record (“AR”), (ECF No. 16), the Court concludes that the Commissioner’s finding that Nahouraii could perform past relevant work was supported by substantial evidence. Therefore, the Court denies Nahouraii’s motion for remand, (ECF No. 22), and grants the Commissioner’s cross-motion to affirm, (ECF No. 23).

## I. STANDARDS OF REVIEW

## A. Judicial Standard of Review

This court's review of administrative decisions in social security disability benefits cases is governed by 42 U.S.C. § 405(g). See *Akopyan v. Barnhart*, 296 F.3d 852, 854 (9th Cir. 2002). Section 405(g) provides that “[a]ny individual, after any final decision of the Commissioner of Social Security made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action . . . brought in the district court of the United States for the judicial district in which the plaintiff resides.” The court may enter, “upon the pleadings and transcript of the record,

1 a judgment affirming, modifying, or reversing the decision of the Commissioner of Social  
 2 Security, with or without remanding the cause for a rehearing." *Id.*

3       The court must affirm an Administrative Law Judge's ("ALJ") determination if it is  
 4 based on proper legal standards and the findings are supported by substantial evidence  
 5 in the record. *Stout v. Comm'r Soc. Sec. Admin.*, 454 F.3d 1050, 1052 (9th Cir. 2006); see  
 6 also 42 U.S.C. § 405(g) ("findings of the Commissioner of Social Security as to any fact,  
 7 if supported by substantial evidence, shall be conclusive"). "Substantial evidence is more  
 8 than a mere scintilla but less than a preponderance." *Bayliss v. Barnhart*, 427 F.3d 1211,  
 9 1214 n.1 (9th Cir. 2005) (internal quotation marks and citation omitted). "It means such  
 10 relevant evidence as a reasonable mind might accept as adequate to support a  
 11 conclusion." *Richardson v. Perales*, 402 U.S. 389, 401 (1971) (quoting *Consolidated*  
 12 *Edison Co. v. NLRB*, 305 U.S. 197, 229 (1938)); see also *Webb v. Barnhart*, 433 F.3d  
 13 683, 686 (9th Cir. 2005).

14       To determine whether substantial evidence exists, the court must look at the  
 15 administrative record as a whole, weighing both the evidence that supports and  
 16 undermines the ALJ's decision. *Orteza v. Shalala*, 50 F.3d 748, 749 (9th Cir. 1995)  
 17 (citation omitted). Under the substantial evidence test, a court must uphold the  
 18 Commissioner's findings if they are supported by inferences reasonably drawn from the  
 19 record. *Batson v. Comm'r, Soc. Sec. Admin.*, 359 F.3d 1190, 1193 (9th Cir. 2004).  
 20 "However, if evidence is susceptible of more than one rational interpretation, the decision  
 21 of the ALJ must be upheld." *Orteza*, 50 F.3d at 749 (citation omitted). The ALJ alone is  
 22 responsible for determining credibility and for resolving ambiguities. *Meanel v. Apfel*, 172  
 23 F.3d 1111, 1113 (9th Cir. 1999).

24       It is incumbent on the ALJ to make specific findings so that the court does not  
 25 speculate as to the basis of the findings when determining if substantial evidence supports  
 26 the Commissioner's decision. The ALJ's findings should be as comprehensive and  
 27 analytical as feasible and, where appropriate, should include a statement of subordinate  
 28 factual foundations on which the ultimate factual conclusions are based, so that a

1 reviewing court may know the basis for the decision. See *Gonzalez v. Sullivan*, 914 F.2d  
2 1197, 1200 (9th Cir. 1990).

3       **B. Standards Applicable to Disability Evaluation Process**

4       The individual seeking disability benefits bears the initial burden of proving  
5 disability. *Roberts v. Shalala*, 66 F.3d 179, 182 (9th Cir. 1995). To meet this burden, the  
6 individual must demonstrate the “inability to engage in any substantial gainful activity by  
7 reason of any medically determinable physical or mental impairment which can be  
8 expected . . . to last for a continuous period of not less than 12 months.” 42 U.S.C. §  
9 423(d)(1)(A). More specifically, the individual must provide “specific medical evidence” in  
10 support of their claim for disability. See 20 C.F.R. § 404.1514. If the individual establishes  
11 an inability to perform their prior work, then the burden shifts to the Commissioner to show  
12 that the individual can perform other substantial gainful work that exists in the national  
13 economy. *Reddick v. Chater*, 157 F.3d 715, 721 (9th Cir. 1998).

14       The first step requires the ALJ to determine whether the individual is currently  
15 engaging in substantial gainful activity (“SGA”). 20 C.F.R. §§ 404.1520(b), 416.920(b).  
16 SGA is defined as work activity that is both substantial and gainful; it involves doing  
17 significant physical or mental activities, usually for pay or profit. 20 C.F.R. §§ 404.1572(a)-  
18 (b), 416.972(a)-(b). If the individual is currently engaging in SGA, then a finding of not  
19 disabled is made. If the individual is not engaging in SGA, then the analysis proceeds to  
20 the second step.

21       The second step addresses whether the individual has a medically determinable  
22 impairment that is severe or a combination of impairments that significantly limits the  
23 individual from performing basic work activities. 20 C.F.R. §§ 404.1520(c), 416.920(c). An  
24 impairment or combination of impairments is not severe when medical and other evidence  
25 establish only a slight abnormality or a combination of slight abnormalities that would have  
26 no more than a minimal effect on the individual’s ability to work. 20 C.F.R. §§ 404.1521,  
27 416.921; Social Security Rulings (“SSRs”) 85-28 and 96-3p. If the individual does not have  
28 a severe medically determinable impairment or combination of impairments, then a finding

1 of not disabled is made. If the individual has a severe medically determinable impairment  
2 or combination of impairments, then the analysis proceeds to the third step.

3       The third step requires the ALJ to determine whether the individual's impairment or  
4 combination of impairments meets or medically equals the criteria of an impairment listed  
5 in 20 C.F.R. Part 404, Subpart P, Appendix 1. 20 C.F.R. §§ 404.1520(d), 404.1525,  
6 404.1526, 416.920(d), 416.925, 416.926. If the individual's impairment or combination of  
7 impairments meets or equals the criteria of a listing and meets the duration requirement  
8 (20 C.F.R. §§ 404.1509, 416.909), then a finding of disabled is made. 20 C.F.R. §§  
9 404.1520(h), 416.920(h). If the individual's impairment or combination of impairments  
10 does not meet or equal the criteria of a listing or meet the duration requirement, then the  
11 analysis proceeds to the next step.

12       Prior to considering step four, the ALJ must first determine the individual's residual  
13 functional capacity ("RFC"). 20 C.F.R. §§ 404.1520(e), 416.920(e). The RFC is a function-  
14 by-function assessment of the individual's ability to do physical and mental work-related  
15 activities on a sustained basis despite limitations from impairments. SSR 96-8p. In making  
16 this finding, the ALJ must consider all of the symptoms, including pain, and the extent to  
17 which the symptoms can reasonably be accepted as consistent with the objective medical  
18 evidence and other evidence. 20 C.F.R. §§ 404.1529 and 416.929; SSRs 96-4p, 96-7p.  
19 To the extent that objective medical evidence does not substantiate statements about the  
20 intensity, persistence, or functionally-limiting effects of pain or other symptoms, the ALJ  
21 must make a finding on the credibility of the individual's statements based on a  
22 consideration of the entire case record. The ALJ must also consider opinion evidence in  
23 accordance with the requirements of 20 C.F.R. §§ 404.1527 and 416.927 and SSRs 96-  
24 2p, 96-5p, 96-6p, and 06-3p.

25       After making the RFC determination, the ALJ must then turn to step four to  
26 determine whether the individual has the RFC to perform their past relevant work. 20  
27 C.F.R. §§ 404.1520(f), 416.920(f). Past relevant work means work performed either as the  
28 individual actually performed it or as it is generally performed in the national economy

1 within the last 15 years or 15 years prior to the date that disability must be established. In  
2 addition, the work must have lasted long enough for the individual to learn the job and  
3 performed at SGA. 20 C.F.R. §§ 404.1560(b), 404.1565, 416.960(b), 416.965. If the  
4 individual has the RFC to perform their past work, then a finding of not disabled is made.  
5 If the individual is unable to perform any past relevant work or does not have any past  
6 relevant work, then the analysis proceeds to the fifth and final step.

7 The fifth and final step requires the ALJ to determine whether the individual is able  
8 to do any other work considering their RFC, age, education, and work experience. 20  
9 C.F.R. §§ 404.1520(g), 416.920(g). If the individual is able to do other work, then a finding  
10 of not disabled is made. Although the individual generally continues to bear the burden of  
11 proving disability at this step, a limited evidentiary burden shifts to the Commissioner. The  
12 Commissioner is responsible for providing evidence that demonstrates that other work  
13 exists in significant numbers in the national economy that the individual can do. *Lockwood*  
14 v. Comm'r, Soc. Sec. Admin., 616 F.3d 1068, 1071 (9th Cir. 2010).

## 15 II. CASE BACKGROUND

### 16 A. Procedural History

17 Nahouraii applied for DIB on December 17, 2018, with an alleged disability onset  
18 date of April 3, 2018. (AR 232-34.) Nahouraii's application was denied initially on May 20,  
19 2019, and upon reconsideration on September 13, 2019. (AR 162-66, 171-73.) Nahouraii  
20 subsequently requested an administrative hearing. (AR 174-75.) On December 16, 2020,  
21 Nahouraii and his attorney appeared at a telephonic hearing before an ALJ. (AR 35-59.)  
22 An impartial vocational expert ("VE") also appeared at the hearing by telephone. (*Id.*) The  
23 ALJ issued a written decision on January 21, 2021, finding that Nahouraii was not disabled  
24 because he could perform past relevant work as actually and generally performed. (AR  
25 14-29.) Nahouraii appealed, and the Appeals Council denied review on August 19, 2021.  
26 (AR 1-3.) Accordingly, the ALJ's decision became the final decision of the Commissioner.  
27 Having exhausted all administrative remedies., Nahouraii filed a complaint for judicial  
28 review on October 22, 2021. (ECF No. 1.)

1           **B. ALJ's Decision**

2           In the written decision, the ALJ followed the five-step sequential evaluation process  
3 set forth in 20 C.F.R. §§ 404.1520 and 416.920. (AR 17-29.) Ultimately, the ALJ disagreed  
4 that Nahouraii has been disabled from April 3, 2018, the alleged onset date, through the  
5 date of the decision. (AR 29.) The ALJ held that Nahouraii could perform past relevant  
6 work, which does not require the performance of work-related activities precluded by his  
7 RFC. (*Id.*)

8           In making this determination, the ALJ first determined Nahouraii meets the insured  
9 status requirements of the Social Security Act through December 31, 2023. (AR 19.) The  
10 ALJ then went to step one of the five-step sequential evaluation, where the ALJ found  
11 Nahouraii had not engaged in substantial gainful activity since the alleged onset date of  
12 April 3, 2018. (*Id.*) At step two, the ALJ found Nahouraii had the following severe  
13 impairments: degenerative disc disease of the cervical spine – status-post anterior cervical  
14 discectomy and fusion (ACDF); degenerative disc disease of the lumbar spine – status-  
15 post L2-L5 laminotomies and redo compression with durotomy repair; reconstructive  
16 surgery and dysfunction of major joints – right hip and left shoulder; and osteoarthritis.  
17 (AR 19-22.) At step three, the ALJ found Nahouraii did not have an impairment or  
18 combination of impairments that either met or medically equaled the severity of those  
19 impairments listed in 20 C.F.R. Part 404, Subpart P, Appx. 1; 20 C.F.R. §§ 404.1520(d),  
20 404.1525, 404.1526. (AR 22.)

21           Next, the ALJ determined Nahouraii has the RFC to perform sedentary work as  
22 defined by 20 C.F.R. §§ 404.1567(a) except:

23           [T]wo hours of standing and walking in an eight-hour workday; six or more  
24 hours of sitting in an eight-hour workday; occasionally climb ramps and  
25 stairs; never climb ladders or scaffolds; frequently balance; occasionally  
26 climb ramps and stairs; never climb ladders or scaffolds; frequently balance;  
27 occasionally stoop, kneel, and crouch; never crawl; frequently reach  
overhead and above the shoulder with the left arm; avoid concentrated  
exposure to extreme cold, extreme heat, and vibration; and avoid all  
exposure to dangerous moving mechanical parts and unprotected heights.

28 (AR 22-28.)

1       The ALJ found Nahouraii's medically determinable impairments could reasonably  
2 be expected to cause some of the symptoms alleged; however, Nahouraii's statements  
3 concerning the intensity, persistence, and limiting effects of those symptoms were not  
4 entirely consistent with the medical evidence and other evidence in the record. (*Id.*) In  
5 reaching this conclusion, the ALJ reviewed and discussed Nahouraii's subjective  
6 complaints, symptom evaluation, the objective medical evidence, and physical opinions.  
7 (*Id.*)

8       The ALJ then determined that Nahouraii could perform past relevant work as a  
9 Telephone Solicitor, as actually or generally performed. (AR 29.) Accordingly, the ALJ held  
10 that Nahouraii had not been under a disability since the alleged onset date of April 3, 2018,  
11 through the date of the decision, and denied Nahouraii's claim. (*Id.*)

### 12       **III. ISSUE**

13       Nahouraii now seeks judicial review of the Commissioner's final decision denying  
14 DIB under Title II of the Social Security Act. (ECF No. 22.) Nahouraii raises a single issue  
15 for this Court's review: whether the ALJ properly rejected Nahouraii's testimony  
16 concerning pain, symptoms, and level of limitation. (*Id.* at 6-16.)

### 17       **IV. DISCUSSION**

#### 18       **A. The ALJ articulated clear and convincing reasons for rejecting 19 Nahouraii's subjective testimony.**

20       Nahouraii argues the RFC is contrary to law and not supported by substantial  
21 evidence because the ALJ did not properly evaluate Nahouraii's pain, ignoring probative  
22 evidence and failing to discuss the factors required by the regulations. (ECF No. 22 at 6-  
23 16.) Nahouraii argues the ALJ's errors are errors of "omission", and the only appropriate  
24 remedy is remand. (*Id.* at 16.)

25       By contrast, the Commissioner argues the ALJ provided multiple valid reasons for  
26 discounting Nahouraii's testimony, namely that: (1) objective medical findings did not  
27 support the extent of his allegations; (2) Nahouraii's activities contradicted his allegations  
28 of disabling limitations; and (3) Nahouraii's reports of improvement contradicted his

1 alleged limitations and claim that he was totally disabled. (ECF No. 23 at 7-18.)

2 An ALJ engages in a two-step analysis to determine whether a claimant's testimony  
 3 regarding subjective pain or symptoms is credible. "First, the ALJ must determine whether  
 4 there is objective medical evidence of an underlying impairment which could reasonably  
 5 be expected to produce the pain or other symptoms alleged." *Molina v. Astrue*, 674 F.3d  
 6 1104, 1112 (9th Cir. 2012) (internal quotation marks omitted). "The claimant is not required  
 7 to show that her impairment could reasonably be expected to cause the severity of the  
 8 symptom she has alleged; she need only show that it could reasonably have caused some  
 9 degree of the symptom." *Vasquez v. Astrue*, 572 F.3d 586, 591 (9th Cir. 2009) (internal  
 10 quotation marks omitted).

11 Second, "[i]f the claimant meets the first test and there is no evidence of  
 12 malingering, the ALJ can only reject the claimant's testimony about the severity of the  
 13 symptoms if [the ALJ] gives 'specific, clear and convincing reasons' for the rejection."  
 14 *Ghanim v. Colvin*, 763 F.3d 1154, 1163 (9th Cir. 2014) (quoting *Lingenfelter v. Astrue*, 504  
 15 F.3d 1028, 1036 (9th Cir. 2007)). "General findings are insufficient; rather, the ALJ must  
 16 identify what testimony is not credible and what evidence undermines the claimant's  
 17 complaints." *Id.* (quoting *Lester v. Chater*, 81 F.3d 821, 834 (9th Cir. 1995)); *Thomas v.*  
 18 *Barnhart*, 278 F.3d 947, 958 (9th Cir. 2002) ("[T]he ALJ must make a credibility  
 19 determination with findings sufficiently specific to permit the court to conclude that the ALJ  
 20 did not arbitrarily discredit claimant's testimony.").

21 In making an adverse credibility determination, the ALJ may consider, *inter alia*, (1)  
 22 the claimant's reputation for truthfulness; (2) inconsistencies in the claimant's testimony  
 23 or between his testimony and his conduct; (3) the claimant's daily living activities; (4) the  
 24 claimant's work record; and (5) testimony from physicians or third parties concerning the  
 25 nature, severity, and effect of the claimant's condition. *Thomas*, 278 F.3d at 958-59.

26 A review of the record shows the ALJ provided specific, clear, and convincing  
 27 reasons for finding Nahouraii's statements concerning the intensity, persistence, and  
 28 limiting effects of his symptoms less than credible.

1                   **1.       Objective Medical Evidence**

2                   An ALJ “may not discredit the claimant’s subjective complaints solely because the  
 3 objective evidence fails to fully corroborate the degree of pain alleged.” *Coleman v. Saul*,  
 4 979 F.3d 751, 756 (9th Cir. 2020) (citing *Reddick v. Chater*, 157 F.3d 715, 722 (9th Cir.  
 5 1998)). But an ALJ may discredit a plaintiff’s testimony when it contradicts evidence in the  
 6 medical record. See *Johnson v. Shalala*, 60 F.3d 1428, 1434 (9th Cir. 1995).

7                   The ALJ relied on objective medical evidence that supports the RFC rather than  
 8 Nahouraii’s allegations of pain. Although the ALJ cannot cherry pick objective medical  
 9 evidence from the record, they can consider contrary objective medical evidence in making  
 10 a credibility determination. Here, the ALJ provided a thorough summary of the medical  
 11 evidence in which he highlighted specific objective findings that support the assigned RFC.  
 12 (AR 24-28.) Because those findings conflicted with Plaintiff’s pain and symptom testimony,  
 13 the ALJ found his testimony was not credible because it was inconsistent with the objective  
 14 medical evidence. Based on these findings, the ALJ assigned a reduced RFC with postural  
 15 and environmental limitations. Accordingly, the Court finds the ALJ provided clear and  
 16 convincing reasons for finding Nahouraii not credible to the extent his testimony exceeds  
 17 the RFC.

18                   **2.       Nahouraii’s Daily Activities**

19                   An ALJ may discredit a claimant’s testimony when he reports participation in  
 20 everyday activities indicating capacities that are transferable to a work setting. See *Molina*,  
 21 674 F.3d at 1112-13; 20 C.F.R. § 404.1529(c)(3)(i). Further, the inconsistency between a  
 22 claimant’s alleged symptoms and his daily activities, is sufficient to support a finding that  
 23 a plaintiff was not entirely credible. See *Lingenfelter*, 504 F.3d at 1040 (in determining  
 24 credibility, an ALJ may consider “whether claimant engaged in daily activities inconsistent  
 25 with alleged symptoms”). Specifically, daily activities may be grounds for discrediting a  
 26 claimant’s testimony when a claimant “is able to spend a substantial part of his day  
 27 engaged in pursuits involving the performance of physical functions that are transferrable  
 28 to a work setting.” *Fair v. Brown*, 885 F.2d 597, 603 (9th Cir. 1989). Even when such

1 activities suggest some difficulty functioning, the ALJ may discredit a claimant's testimony  
 2 to the extent they contradict claims of a totally debilitating impairment. See *Turner*, 613  
 3 F.3d at 1225.

4 Here, the ALJ also found Nahouraii less credible because the account of his daily  
 5 activities was inconsistent with his alleged limitations. (AR 24-25); see *Tommasetti*, 533  
 6 F.3d at 1039 (inconsistency between a claimant's alleged symptoms and his daily activities  
 7 may be a clear and convincing reason to find a claimant less credible). Nahouraii's daily  
 8 activities included personal care and some household chores. (AR 24-25.) Nahouraii  
 9 testified he completed personal care approximately every three days. He also testified he  
 10 cleaned around the home and walked around the outside of his house with his dog. The  
 11 ALJ noted Nahouraii reported that his daily routine included walking around the yard,  
 12 calling friends, and going to local friends to visit. Nahouraii also reported snowmobiling in  
 13 March of 2020. Although the ALJ did not explain how all Nahouraii's activities contradicted  
 14 his testimony, the above activities directly contradict Nahouraii's testimony and the ALJ  
 15 was entitled to rely on them in discounting Nahouraii's testimony. *Shaibi v. Berryhill*, 883  
 16 F.3d 1102, 1108 (9th Cir. 2018) ("[w]here evidence is susceptible to more than one rational  
 17 interpretation, it is the ALJ's conclusion that must be upheld") (citing *Burch v. Barnhart*,  
 18 400 F.3d 676, 679 (9th Cir. 2005)); *Jamerson v. Chater*, 112 F.3d 1064, 1066 (9th Cir.  
 19 1997) ("If the evidence can reasonably support either affirming or reversing the  
 20 Commissioner's decision, this panel may not substitute its judgment for that of the  
 21 Commissioner"). Based on these, and other findings, the ALJ determined Nahouraii's  
 22 subjective symptom testimony was inconsistent with his alleged impairments.

### 23           **3. Improvement with Treatment**

24 "Impairments that can be controlled effectively with medication are not disabling."  
 25 *Warre v. Comm'r of Soc. Sec. Admin.*, 439 F.3d 1001, 1006 (9th Cir. 2006); see *Bailey v.*  
 26 *Colvin*, 669 Fed.Appx. 839, 840 (9th Cir. 2016) (unpublished) (no error in discounting  
 27 claimant's testimony where "medical evidence suggest[ed] that many of [her] impairments  
 28 had improved . . . or responded favorably to treatment"). Nahouraii's providers, and

1 Nahouraii himself, reported some improvement, and his level of reported improvement  
2 was entirely consistent with an ability to perform a very reduced range of sedentary work,  
3 as Drs. Nickles and Addonizio also found (See AR 22, 27–28, 140–42, 156–58.) Here, the  
4 ALJ reasonably relied on Nahouraii’s providers’ statements regarding the effectiveness of  
5 his treatments and his own statements that he had some improvement with treatment. (AR  
6 24.) 20 C.F.R. §§ 404.1529(c)(3)(iv)–(v). The ALJ “did not summarily dismiss [Plaintiff’s]  
7 pain complaints but instead carefully considered them.” *Matthews v. Shalala*, 10 F.3d 678,  
8 680 (9th Cir. 1993) (“It was because of the pain complaints that the ALJ made the finding  
9 that [claimant] could not perform repetitive bending and stooping and staying in one  
10 position.”) (emphasis in original); *Greger v. Barnhart*, 464 F.3d 968, 972 (9th Cir. 2006)  
11 (“questions of [symptom evaluation] and resolutions of conflicts in the testimony are  
12 functions solely of the Secretary”) (citation omitted). The Court finds that this ALJ finding  
13 is a specific, clear, and convincing reason to discredit Nahouraii’s testimony regarding his  
14 limitations.

#### 15           **4. Work History**

16           Finally, Nahouraii argues that the ALJ was required to discuss Nahouraii’s strong  
17 work history but failed to do so. 20 C.F.R. § 404.1529(c)(3) states that an ALJ will “consider  
18 all of the evidence presented, including information about your prior work record” but does  
19 not require an ALJ to include a discussion related to work history. See *Thomas*, 278 F.3d  
20 at 958-59. Nonetheless, to the extent the ALJ’s failure to discuss Nahouraii’s work history  
21 was error, such error would be harmless. The Court does not need to uphold all of an  
22 ALJ’s reasons for discounting a plaintiff’s testimony to affirm the ALJ’s decision, so long  
23 as the ALJ provided other reasons that were specific, clear, and convincing. See *Batson*,  
24 359 F.3d at 1197 (holding that where one of an ALJ’s several reasons supporting an  
25 adverse credibility finding is held invalid, the error is harmless if it “does not negate the  
26 validity of the ALJ’s ultimate conclusion that [the claimant’s testimony] was not credible”);  
27 *Carmickle v. Comm’r Soc. Sec. Admin.*, 533 F.3d 1155, 1163 (9th Cir. 2008) (upholding  
28 an adverse credibility finding where the ALJ provided four reasons to discredit the

1 claimant, two of which were invalid). As discussed above, the Court finds that the ALJ  
2 provided other reasons for discounting Nahouraii's pain and symptom testimony which are  
3 specific, clear, and convincing reasons supported by substantial evidence in the record.

4 Based on the above, the Court finds the ALJ provided "specific, clear and  
5 convincing" reasons supported by substantial evidence for discounting Nahouraii's  
6 credibility as to his subjective limitations. See *Fair*, 885 F.2d at 604 ("Where, as here, the  
7 ALJ has made specific findings justifying a decision to disbelieve an allegation of excess  
8 pain, and those findings are supported by substantial evidence in the record, our role is  
9 not to second-guess that decision.").

10 **V. CONCLUSION**

11 Having reviewed the Administrative Record as a whole and weighing the evidence  
12 that supports and detracts from the Commissioner's conclusion, the Court finds that the  
13 ALJ's decision was supported by substantial evidence.

14 Accordingly, **IT IS THEREFORE ORDERED** that Nahouraii's motion to remand  
15 (ECF No. 22) is **DENIED**, and the Commissioner's cross-motion to affirm (ECF No. 23) is  
16 **GRANTED**;

17 **IT IS FURTHER ORDERED** that the Clerk **ENTER JUDGMENT** and **CLOSE THIS**  
18 **CASE**.

19 **DATED:** July 22, 2022.

20   
21 **UNITED STATES MAGISTRATE JUDGE**  
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